

In the Claims:

Please cancel claims 16 and 17, and amend claims 1 and 22 as follows.

D¹ 1. **(Amended)** An isolated composition comprising a first nucleic acid construct comprising a first gene encoding an antitumor agent whose expression is controlled by a first promoter whose function is suppressed by a wild-type p53 or p16^{INK4} allele in non-tumor cells relative to tumor cells carrying a mutant p53 or p16 allele, and a second nucleic acid construct comprising a second gene whose gene product suppresses expression of said first gene, wherein the expression of said second gene is controlled by a second promoter that is up-regulated in non-tumor cells relative to tumor cells carrying a mutant p53 or p16 allele, such that said first gene is expressed in tumor cells and suppressed in non-tumor cells.

D² 22. **(Amended)** A method of controlling the proliferation of a tumor cell comprising introduction of a first nucleic acid construct and a second nucleic acid construct of the composition according to claim 1 into the cell *in vitro*.

REMARKS

Claims 1-13 and 15-25 are currently pending in the application. Claims 16 and 17 have been canceled, and claims 1 and 22 have been amended. Accordingly, claims 1-13, 15, and 18-25 will be pending upon entry of this amendment and response. Support for amended claims 1 and 22 can be found throughout the application and in the claims as originally filed.

No new matter has been added. Any amendments to and/or cancellation of the claims should in no way be construed as acquiescence to any of the rejections and was done solely to expedite the prosecution of the application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Attached hereto is Appendix A, captioned "Version With Markings To Show Changes Made," indicating the changes made to the claims. For the Examiner's convenience, all of pending claims are set forth in Appendix B.